IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No. 1402 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16.2.2004 in W.P.No. 12718 of 1991 on the file of the High Court.)

Between:

1 B. Radhamma W/o Ramana Reddy
R/o Penubarthi Village, Rapur Mandal, Nellore District
2 Kondra Sudhamma W/o Musali Reddy
R/o Penubarthi Village, Rapur Mandal, Nellore District

..... APPELLANTS

AND

1.Government of Andhra Pradesh, rep. by Secretary, Irrigation &

CAD (Project Wing) Department, Secretariat, Hyderabad.
2. Special Collector, Telugu Ganga Project, Nellore.
3.The Special Deputy Collector (Land Acquisition) Telugu Ganga

Project, Podalakur at Nellore.

.....RESPONDENTS

Counsel for the Appellants : Mr. P.KRISHNA REDDY

Counsel for the Respondents: G.P.FOR IRRIGATION & COMMAND AREA DEVELOPMENT.

The Court at the admission stage made the following :

ORAL JUDGMENT: (per the Hon'ble the Chief Justice)

Writ Petition of the appellants was dismissed by the learned single Judge by the order impugned in this appeal. The appellants, in the writ petition, prayed for quashing of Award No.16/90-94 passed by third respondent on 25-3-1991 as illegal and violative of the provisions of Sections 9(3), 10 and 12(2) of the Land Acquisition Act, 1894 ('the Act'), and violative of the principles of natural justice. They have prayed, in the alternative, that the respondents may be directed to entertain their prayer for reference to the Court under Section 18(2) of the Act for determination of amount of compensation.

The writ petition was contested by the respondents on the ground that award was passed in accordance with law on 25-3-1991 after notices under Sections 9(3) and 10 were served on all persons interested. Insofar as the writ petitioners-appellants are concerned, they refused to receive the notices and they were served by substituted service by affixture of the same on the door of their residential houses. They have not filed any objections and not attended award enquiry. Notice under Section 12(2) was also served on all awardees except the writ petitioners-appellants, which, they refused to take them, and were served on them by substituted service by affixture on the door of their residential houses. It is also stated that writ petitioners-appellants have also not received the amount of compensation. Therefore, there was no question of award being set aside or the appellants have any right to have the reference made under Section 18(2) of the Act to the Civil Court.

Writ petitioners-appellants filed affidavits of third parties in response to the reply affidavit of T.V.Seshaiah, Special Deputy Collector, Land Acquisition. Out of the

three persons by whom affidavits have been filed, first deponent is K.Subrahmanya Reddy, second deponent is Bandi Krishna Reddy of Penubarthi village and third is V.Narasaiah, another resident of Penubarthi. All of them are stated to be witnesses who witnessed the affixation of notices on refusal of notices by the writ petitioners. They, in one voice, stated that in their presence no notice was sought to be served upon the writ petitioners-appellants and no notice was affixed on the door of the residences of the appellants. There is no rebuttal to these material facts by the respondents and even the respondents also did not bother to place on record the affidavit of the person who is alleged to have offered the notices or the fact of affixation of notices on the residences. As such, in the opinion of the Court, it must be held that notices were not served upon the writ petitioners-appellants. Learned single Judge failed to take note of this aspect in his order and declined to adopt the view in the earlier judgment of this Court in W.P.No.12913 of 1991, dated 17-9-2002 directing the respondents therein to serve notice on the petitioners under Section 12(2) of the Act, and reserving liberty to the petitioner therein to seek reference to the civil Court under Section 18 of the Act.

Considering the circumstances aforementioned, we proceed to hold that no notices were served upon the appellants.

Learned counsel for the appellants submits that notices may be deemed to have been served on the appellants under Section 12(2) of the Act today and permission may be granted to the appellants to submit their application for reference under Section 18 raising objections to the award within a period of two months from today and a direction may be issued to third respondent to make reference.

Accordingly, we allow the appeal, set aside the impugned order and direct that in case the writ petitioners-appellants will submit application for reference under Section 18(2) of the Act within a period of two months from today, respondent No.3 will duly entertain it and forward the same to the appropriate Reference Court for determination of amount of compensation. No costs.

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DEVINDER GUPTA, C.J.

23rd September 2004.

C.V.RAMULU, J.

ARS

To

1 The Secretary, Government of Andhra Pradesh, Irrigation & CAD

(Project Wing) Department, Secretariat, Hyderabad.
2 The Special Collector, Telugu Ganga Project, Nellore.
3 The Special Deputy Collector (Land Acquisition) Telugu Ganga

Project, Podalakur at Nellore.

4 Two CCs to the G.P. for Irrigation and Command Area Development

Department, High Court Buildings, Hyderabad.

5 Two CD copies.